THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.18138 OF 1998

DATED: 06-06-2007

Between:

A. Seetharama Rao

.. Petitioner

and

Government of A.P. represented by its Secretary for Irrigation & CAD, A.P., Secretariat, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

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ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in not disposing of the petitioner's representation for reconsideration of the punishments imposed on the petitioner vide impugned proceedings No.IDC/MD/Adm/D8/ASO2/E39/4/79/307C, dated 4/7.12.1990, and ignoring their office memo No.131-C, dated 24.06.1994, before according permission for voluntary retirement and retiring the petitioner from service in the cadre of Draughtsman Grade-III as against his original appointment as Store Keeper as illegal and arbitrary, and consequently to declare that the petitioner is entitled to retire in the cadre of Store Keeper, his original post, with all consequential benefits.

It appears, the petitioner, while working as Store Keeper with the respondents-Corporation, had been reverted to the post of Draughtsman Grade-III, vide order dated 16.06.1990, for certain irregularities alleged to have been committed by him. Thereafter, the impugned proceedings, dated 04/07.12.1990, were issued communicating certain instructions about recovery of certain amounts from him and stating that the period of suspension shall be treated as suspension only. Thereupon, the petitioner filed a representation, dated 26.05.1994, for reconsideration of the punishment imposed on him. While the same was pending, on introduction of Voluntary Retirement Scheme in the year 1997, the petitioner applied for the

same and, on acceptance of his application, he retired from service voluntarily with effect from 05.02.1998. It is the grievance of the petitioner that the respondents, without considering the representation filed by him for reconsideration of the punishment imposed on him, simply accepted his application for voluntary retirement, as a consequence of which he was made to retire in the post of Draughtsman Grade-III only.

A detailed counter-affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner. However, it is asserted at paragraph 9 of the counter-affidavit that the petitioner made a representation, dated 26.05.1994, to reduce the punishment and to post him as a Store Keeper. The Corporation informed that any reduction of penalty can be considered only after completion of recovery of the amount. The Corporation was also considering the request of the petitioner to post him as Store Keeper, as the entire process of recovery was completed by July 1997 vide his representation dated 17.07.1997, duly calling for his performance report etc. from the concerned officer and the same was under process.

Heard both sides.

It is not in dispute that the entire amount was recovered from the petitioner. But, his representation for reconsideration of the punishment imposed on him, which was under process, was not disposed of and, in the meanwhile, the petitioner, having applied for voluntary retirement under Voluntary Retirement Scheme, was made to retire from service in the cadre of Draughtsman Grade-III.

In view of the averments in the counter-affidavit filed, it is clear that

it was obligatory on the part of the respondents to consider the representation filed by the petitioner for reconsideration of the punishment imposed on him, after the entire amount was recovered from him by July 1997. But the same has not been done and the petitioner was made to retire as Draughtsman Grade-III only. Once the case of the petitioner was under consideration, it was not proper on the part of the respondents to relieve the petitioner in the cadre of Draughtsman Grade-III under Voluntary Retirement Scheme, without passing any orders on his representation. The respondents are liable to consider the representation of the petitioner and pass appropriate orders as per law.

Therefore, the respondents are directed to consider and pass appropriate orders as per law on the representation, dated 26.05.1994, filed by the petitioner, if not already disposed of, within a period of two months from the date of receipt of a copy of this order and communicate the same to the petitioner.

With the above direction, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

6th June, 2006.

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